

**FIRST REPORT TO THE LEADERS ON THE
U.S.-JAPAN REGULATORY REFORM AND COMPETITION POLICY INITIATIVE
June 25, 2002**

On June 30, 2001, President Bush and Prime Minister Koizumi established the Regulatory Reform and Competition Policy Initiative (Regulatory Reform Initiative) which is an important component of the U.S.-Japan Economic Partnership for Growth (Partnership). Over the past year, the Governments of the United States and Japan have been working intensively to fulfill the primary objective of the Initiative – to promote economic growth by focusing on sectoral and cross-sectoral issues related to regulatory reform and competition policy.

Consistent with the aim of achieving tangible progress and the principle of two-way dialogue, the Governments of the United States and Japan exchanged detailed regulatory reform recommendations in October 2001. These recommendations provided the basis for extensive discussions between the two Governments for meetings of the High-Level Officials Group and the Working Groups. The Working Groups met throughout the year to discuss reforms in key sectors and areas, including telecommunications, information technologies, energy, medical devices and pharmaceuticals, competition policy, transparency, legal system reform, commercial law revision, and distribution. Several of the Working Groups invited input from private sector representatives, who provided their valuable expertise, observations, and recommendations on important issues taken up under this Initiative.

The Government of Japan has taken a series of regulatory reform measures, including the adoption on March 29, 2002 of its revised three-year Regulatory Reform Promotion Program. The Government of the United States notes recent discussions in Japan to establish structural/regulatory reform zones and looks forward to exchanging views with the Government of Japan on this issue as developments unfold.

The salient regulatory reforms and other measures by both Governments that relate to the work under the Regulatory Reform Initiative are set out in this Report to the Leaders. (Financial services measures taken up in the Financial Dialogue are also included.) The two Governments welcome the measures specified in this Report and share the view that these measures will improve market access for competitive goods and services, enhance consumers' interests, increase efficiency, and promote economic activity.

In addition, given the immense potential for the information technologies sector to spur growth in our respective economies, the two Governments put special emphasis in this year's Report on "e-initiatives" related to e-commerce, e-government, and cyber-security. In accordance with the cooperative spirit of the Partnership, the Governments of the United States and Japan: 1) recognize and support through the multilateral framework principles and matters for liberalizing trade of digital products; 2) will demonstrate global leadership on advancing and implementing e-government services; and 3) will also work together to facilitate broader acceptance and use of the Convention on Cybercrime. (*See attached annex for specific e-Initiatives.*) These e-Initiatives will provide important momentum for our work under the Partnership and underscore our joint efforts to promote growth and boost productivity in our respective economies.

Both Governments reaffirm their determination to further promote regulatory reforms and, upon the request of either government, will meet at mutually convenient times to address the measures contained in this Report. The two Governments also share the view that measures specified in the Joint Status Reports under the U.S.-Japan Enhanced Initiative on Deregulation and Competition Policy will continue to be implemented and are consistent with the objectives of the Regulatory Reform Initiative.

REGULATORY REFORM AND OTHER MEASURES BY
THE GOVERNMENT OF JAPAN

I. TELECOMMUNICATIONS

A. Promotion of Competition

1. The amendments to the Telecommunications Business Law, NTT Law, and related laws, which are aimed at promoting further competition in the telecommunications business field, include the introduction of new asymmetric regulations to eliminate anti-competitive behavior of major telecommunications carriers which are assumed to have market power and the establishment of the Telecommunications Business Dispute Settlement Commission. They came into effect on November 30, 2001.
2. The amended laws no longer require approval of, but only notification to, the government for formulating and changing tariffs, interconnection agreements and facilities-sharing agreements of telecommunications carriers other than those with designated regional fixed networks. After inviting public comments, MPHPT released ordinances stipulating items to be notified.
3. In addition, all Type I and Special Type II carriers are now able to offer wholesale services with increased flexibility, by notification of a contract or a tariff. After inviting public comments, MPHPT released ordinances stipulating items to be notified.
4. Furthermore, MPHPT issued a public notification in May 2002, designating telecommunications carriers which are assumed to have market power in the field of mobile communications.
5. MPHPT amended Regulations for Enforcement of the Telecommunications Business Law and other relevant regulations in April 2002 and implemented such measures as the easing of a Type I carrier's expansion of its service area, which is now in principle only subject to notification, and the easing of requirements for approval of consignment of business activities.
6. MPHPT comprehensively revised the "Manual for the Construction of Networks by Telecommunications Carriers" to reflect changes described in paragraphs 1-3 and 5 above.
7. A draft of the final report on issues such as the promotion of the opening of networks, the strengthening of administrative policies in support of consumer

activities, and the introduction of a new framework for competition policy was published by the Special Department for Desirable Pro-Competitive Policy of the Telecommunications Council on June 4, 2002. The draft of the final report includes consideration of issues such as the access to OSS for Internet-related services, the examination of the relationship between interconnection rates and user rates, and a new framework for competition resulting from, for example, possible abolition of Type I and Type II business categories. Public comments are being invited at present.

8. The Telecommunications Business Dispute Settlement Commission, established with the implementation of the amendments to the Telecommunications Business Law, NTT Law, and related laws on November 30, 2001, has resolved eight disputes through its mediation (*assen*) procedures as of the end of May 2002.
9. The Telecommunications Business Dispute Settlement Commission made public on April 19, 2002 its report on the disputes the Commission had addressed in FY2001. The mediation proposals that mediators of the Commission submitted to parties were also made public in the report within the limits agreed upon by the parties.

B. Fixed Interconnection

1. In February 2001, MPHPT approved NTT East's and West's applications to phase out the interconnection rate for the I-interface subscriber module (ISM) switching function over three years from FY2000 to FY2002. As a result, the difference between ISDN interconnection and telephone interconnection has been eliminated since April 2002.
2. MPHPT approved in February 2001 the LRIC-based interconnection rates of NTT East and West from FY2000 to FY2002 for functions related to the provision of telephone and ISDN services. This has resulted in a 22.5 percent reduction for GC interconnection and a 60.1 percent reduction for ZC interconnection in April 2002, compared with FY1998.
3. Based on the recommendations in the report of the Study Group on the LRIC Model that was held from March 1997 to September 1999, and the Telecommunications Council's Report "Policy on Calculation of Interconnection Charges" of February 2000, MPHPT re-established the Study Group in September 2000 and conducted a study on the revision of the LRIC model. The Study Group issued its report in March 2002, after inviting public comments for a month in February 2002.

4. MPHPT consulted the Telecommunications Council in March 2002 about the policy on calculation of interconnection rates based on the revision of the LRIC model. The Council is presently considering such issues as the evaluation of the revised model, timing and the duration of the application of the model, and methods to calculate interconnection rates in the future. After receiving the recommendations to be issued by the Council, MPHPT will decide on the interconnection rates, in line with the Third Joint Status Report of July 2000, taking into account views on appropriate rates. The Government of Japan will exchange views with the Government of the United States no later than October 2002 on implementation of the interconnection rates for FY2002.
5. When negotiations between parties on interconnection for 110 emergency calls fail, a party may apply to MPHPT for arbitration.

C. Mobile Interconnection

1. The amendments to the Telecommunications Business Law, NTT Law, and related laws which came into effect on November 30, 2001 stipulate that telecommunications carriers with Category II-designated telecommunications facilities (mobile networks) have to notify MPHPT of and publicize interconnection tariffs. In this regard, MPHPT issued a public notification in February 2002 designating Category II-designated telecommunications facilities. Article 38-3 of the Telecommunications Business Law applies to the interconnection tariff compiled by NTT DoCoMo regarding interconnection with its Category II-designated telecommunications facilities. Any carrier may submit an opinion that such interconnection tariff should be modified. When the interconnection tariff proves to surpass the sum of appropriate costs and appropriate profit under efficient management, revisions may be required by MPHPT.
2. NTT DoCoMo's interconnection rates have been significantly reduced over the last five years. The rates filed in March 2002 resulted in a reduction of approximately 14 percent compared to the previous fiscal year.

D. Rights of Way

1. Revision of Guidelines: To make it easier for Type I telecommunications carriers to lay cables, MPHPT revised the "Guidelines for Use of Utility Poles, Ducts, Conduits, etc.," as stipulated in supplementary provisions to the Guidelines, after inviting public comments. The revised Guidelines have been in effect since April 1, 2002.

2. Amendment to Wireline Telecommunications Facility Order: MPHPT amended the Wireline Telecommunications Facility Order in December 2001 so that new entrants can attach communications cables to poles jointly with existing facilities if such attachments do not risk damaging the existing facilities.
3. Permission for TOKYO ELECTRIC POWER COMPANY INC. to Operate a Type I Telecommunications Business: Given the circumstances specific to TOKYO ELECTRIC POWER COMPANY INC. where its poles consist of de facto bottleneck facilities, MPHPT required, as a condition for granting permission in February 2002 for the Company to operate a Type I telecommunications business, that the Company ensure fair use of its poles among:
 - a. Its own telecommunications business division;
 - b. Its telecommunications business affiliates; and
 - c. Other telecommunications carriers.
4. Review of Regulations Related to Road Construction: To accommodate urgent construction of fiber-optic networks by telecommunications carriers that could not have been foreseen at the beginning of a fiscal year, MLIT will undertake necessary coordination approximately every 3 months and will ease the relevant restrictions on road construction in winter and around the end of a fiscal year, to the extent that road traffic is not seriously affected. This measure will be maintained until FY2005.
5. Encouragement to Lay Cable by Installing and Opening Facilities, Including Accommodation Space:
 - a. Within FY2002, MLIT will install approximately 23,000 km of accommodation space such as shared conduits to house fiber-optic cables for road management purposes and other buried cables, thus expanding nationwide networks. MLIT will promote open access to such fiber and conduit space.
 - b. MLIT will work on the development of Shared Conduits for Cables for the Next Generation (provisional title) which will be faster and less costly to install due to compact design and shallow placement. MLIT will establish model conduits within FY2002.
6. Dissemination of Sufficient Information: To enable private companies to lay fiber-optic cables on bridges MLIT will disseminate, by the end of FY2002,

information on new construction and refurbishing of bridges over directly-controlled national roads. MLIT has requested that authorities controlling other national and local roads similarly make the relevant information available.

7. Swifter Procedures: With regard to directly controlled national roads, MLIT enabled the electronic application for the use of rights-of-way nationwide in FY2001. As for the other national roads and roads controlled by local authorities, MLIT has encouraged these authorities to enable electronic application procedures, where possible within FY2003. In FY2002 MLIT will establish and publicize the basic specifications of a standard system for local authorities.

II. INFORMATION TECHNOLOGIES

A. Legal Framework

1. Revision of Regulations: The Government of Japan has revised various regulations that hindered e-commerce. The Government of Japan will continue to do so as necessary to further promote the growth and development of e-commerce based on policies of the Strategic Headquarters for the Promotion of an Advanced Information and Telecommunications Network Society (“IT Strategic Headquarters”) as described in the “e-Japan Priority Policy Program - 2002” issued on June 18, 2002, which is a revision of the “e-Japan Priority Policy Program” issued on March 29, 2001.
 - a. The Government of Japan submitted legislation that will regulate online auction websites in March 2002. The National Police Agency will follow the general rules of public comment procedure implemented by the Government of Japan, so that the implementing regulations will be developed in a transparent manner.
2. Private-Sector Participation: The Government of Japan has solicited private-sector opinion in the planning and implementation of its policy both through private sector participation in the IT Strategic Headquarters and through public comments to the e-Japan Priority Policy Program and the e-Japan Priority Policy Program - 2002.
 - a. The Governments of Japan and the United States will work towards including private sector input as appropriate in the next round of IT Working Group discussions by having representatives of Japanese and U.S. companies offer their input to the relevant Government Ministries and Departments on legal and regulatory difficulties that businesses face in trying to successfully establish IT-related business models.

- d. The Government of the United States took note of the Government of Japan's request that the SSA consider amending the relevant rules so that legal residents can obtain SSNs.
4. Regarding international driver's licenses, the Government of the United States will confirm the official policies of individual states regarding the use of international driver's licenses and will, as necessary, request that individual states share this information with all relevant law enforcement authorities.

II. TELECOMMUNICATIONS

- A. **Participation in the U.S. Wireless Market:** The Government of the United States will continue a dialogue with the Government of Japan on restrictions on direct investment in the U.S. wireless market. Taking account of Japan's concerns in this area, the Government of the United States clarified that United States law does not prohibit private foreign entities from holding up to one hundred percent direct investment in non-broadcast, non-common-carrier or non-aeronautical en route or non-aeronautical fixed radio station licenses.
- B. **Certification and Licensing Criteria for Foreign Carriers' Entry into the U.S. Telecommunications Market**
 1. The Government of the United States will continue a dialogue with the Government of Japan relating to the transparency of U.S. certification and licensing criteria, and the application of foreign policy, trade policy, and competition concerns to licensing decisions (including the application of dominant carrier regulations to international carriers).
 2. As part of the 2000 Biennial Regulatory Review of regulations relating to international services, the FCC eliminated the obligation that U.S. international carriers classified as dominant for the provision of particular international communications services solely because of foreign carrier affiliation file international service tariffs. The FCC will provide relevant information on the 2002 Biennial Regulatory Review to the Government of Japan.
- C. **State-Level Regulations:** The Government of the United States will continue a dialogue with the Government of Japan regarding state-level regulation, including licensing procedures and the Government of Japan's interest in regulatory harmonization among states. Regarding aspects of incumbent local exchange carrier compliance with the 1996 Telecom Act, the FCC has proposed simplified and harmonized nation-wide reporting requirements (known as performance standards).
- D. **Access to Incumbent Carriers' Networks**

1. In May 2002 the United States Supreme Court upheld the FCC's decision to use a forward-looking costing methodology, namely the Total Element Long-Run Incremental Cost (TELRIC) methodology, as the standard for setting rates for access to the networks of incumbent local exchange carriers. The Government of the United States will continue to provide information to the Government of Japan on implementation of this methodology throughout the United States.
 2. The FCC is exploring the feasibility of instituting a unified inter-carrier compensation regime covering inter-state, commercial wireless, and local services.
- E. **Procedures for Processing Export Licenses and TAA Approval of Commercial Satellites:** The Government of the United States explained that the export process for commercial communications satellite components and technical data for NATO and non-NATO allies, including Japan, had been simplified under the Defense Trade Security Initiative (DTSI) announced in May 2000. Taking into account Japan's concerns with regard to the procurement of commercial satellites in a timely fashion, the Government of the United States will continue its efforts to shorten the processing period for export licenses and TAA approval for commercial communications satellites.

III. INFORMATION TECHNOLOGY

- A. **Copyright Protection:** The Government of the United States will continue a dialogue with the Government of Japan on issues of concern related to copyright protection and will promptly provide relevant information upon request from the Government of Japan to the extent reasonable.

COOPERATIVE EFFORTS

B. E-Education

1. The Governments of the United States and Japan recognize the importance of digitization of school education and will continue to discuss the benefits of e-learning in educational systems. The two governments will also continue to discuss ways they can cooperate to promote private sector technological solutions for e-education, for example, by participating in an event similar to "Global Communication 2002."
2. In June 2002, Japan adopted the e-Japan Priority Policy Program – 2002 which focuses on both hardware and software, and aims to improve areas such as utilization of PC-based Internet in all classes in public schools by FY2005 and the IT instructional skills of teachers.